ANNEX B

Public Interest Test – /EIR

Reference Number – DAERA/26-826

Requested Information

1. **Please provide any evidence which refers to the exact location of the tarry waste pit within the land parcel identified below. This may include a historic map of the tarry waste pit indicating the area of the boundary; or coordinates showing the exact location with a buffer indicating the estimated area of the former tarry waste pit;**
2. **Please provide any environmental reports that were prepared in relation to the tarry waste site at Rossdowney Road. One such report was identified in a previous FOI request (attached) which was prepared by Entec (1996);**
3. **Please provide any evidence of remediation works (if any) undertaken at the site and the results / status of such works. If a third-party contact should be provided in response to this query, please include an email address and contact phone number to the relevant department (in accordance with GDPR regulations); and**
4. **Please confirm if there are legislative requirements regarding the need for a buffer between the former tarry waste pit and any potential development, including mitigation requirements should topsoil be disturbed during construction works.**

Exemption / Exception under consideration

Environmental Information Regulations 2004 12(5)(b)

Regulation 12(5)(b) allows you to refuse to disclose information "to the extent that its disclosure would adversely affect" the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature.

Reasons why the public interest would favour disclosure:

- Regulation 12(2) requires DAERA to apply a presumption in favour of disclosure;

- DAERA is committed to conducting its business in a manner that is as open and transparent as possible;
- There is wide public interest in matters concerning the environment.

Reasons why the public interest would favour withholding:

- Protecting Legal Proceedings - Disclosure could interfere with ongoing or future legal cases, investigations, or inquiries.
- Avoiding Prejudice to Investigations - Releasing sensitive information relating to an investigation or compromise evidence gathering.
- Maintaining Trust in the Justice System - Public confidence in fair and impartial justice could be undermined if sensitive legal or investigatory material is released prematurely.

Conclusion

Following consideration of the Public Interest Test the Department has decided the information relates to ongoing or potential legal proceedings and its disclosure could prejudice the course of justice.

Releasing the information could undermine legal professional privilege, which is a cornerstone of the justice system and ensures that parties can seek and receive confidential legal advice.

Disclosure could discourage open and honest communication between legal advisers and public authorities, which would not be in the public interest.
It may also compromise the integrity of any future inquiry or disciplinary process.

While there is a strong public interest in openness and transparency, in this case the public interest in maintaining the exception outweighs the public interest in disclosure. The protection of the legal process and the ability of the authority to conduct its affairs without prejudice is considered to be of greater importance.



Waste Regulation Unit Planning Response Team